



February 16, 2001

## SENATE BILL No. 404

DIGEST OF SB 404 (Updated February 14, 2001 4:26 PM - DI 98)

**Citations Affected:** IC 16-18; IC 16-22; IC 16-42.

**Synopsis:** Certified food handlers. Requires that, after December 31, 2004, every food establishment must have at least one certified food handler. Exempts certain food handling activities and certain institutions from the requirement to have a certified food handler. Requires the state department of health to establish standards not later than December 31, 2003, for recognizing certification programs for food handlers. Preempts local health departments from regulating food handlers. Requires the state department of health to establish penalties for violations of the chapter.

**Effective:** Upon passage.

**Miller, Rogers**

January 18, 2001, read first time and referred to Committee on Health and Provider Services.

February 15, 2001, amended, reported favorably — Do Pass.

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SB 404—LS 8074/DI 102+



February 16, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## SENATE BILL No. 404

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 16-18-2-51.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: **Sec. 51.5. "Certified food**  
4 **handler", for purposes of IC 16-42-5.2, has the meaning set forth**  
5 **in IC 16-42-5.2-4.**

6 SECTION 2. IC 16-18-2-80 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 80. "Corporation",  
8 for purposes of IC 16-22-8 ~~has the meaning set forth in IC 16-22-8-2.~~  
9 **and IC 16-42-5.2, means the health and hospital corporation**  
10 **created under IC 16-22-8.**

11 SECTION 3. IC 16-18-2-135 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 135. (a) "Food", for  
13 purposes of IC 16-42-1 through IC 16-42-4 and IC 16-42-18, means the  
14 following:

- 15 (1) Articles used for food, drink, confectionery, or condiment for  
16 humans.  
17 (2) Chewing gum.

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(3) Articles used for components of any of these articles.

(b) "Food", for purposes of IC 16-42-5 ~~has the meaning set forth in IC 16-42-5-1.~~ and IC 16-42-5.2, means the following:

(1) All articles used for food, drink, confectionery, or condiment whether simple, mixed, or compound.

(2) All substances or ingredients used in the preparation of the items described in subdivision (1).

SECTION 4. IC 16-18-2-137 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 137. "Food establishment", for purposes of IC 16-42-5 ~~has the meaning set forth in IC 16-42-5-2.~~ and IC 16-42-5.2, means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food.

SECTION 5. IC 16-18-2-138 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 138. "Food handling", for purposes of IC 16-42-5 ~~has the meaning set forth in IC 16-42-5-3.~~ and IC 16-42-5.2, means producing, processing, handling, preparing, manufacturing, packing, storing, selling, distributing, or transporting of food.

SECTION 6. IC 16-18-2-138.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 138.3. "Food handler", for purposes of IC 16-42-5.2, has the meaning set forth in IC 16-42-5.2-5.

SECTION 7. IC 16-42-5.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 5.2. Food Handlers**

**Sec. 1.** Except as provided in this chapter, a corporation or local health department may not impose any registration, certification, or licensing requirements on food handling or food handlers.

**Sec. 2.** This chapter does not apply to a food establishment when the food establishment's food handling activities are limited solely to one (1) or more of the following:

(1) Heating or serving precooked hot dog or sausage products, popcorn, nachos, pretzels, or frozen pizza.

(2) Preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal.

(3) Preparing or serving nonalcoholic or alcoholic beverages or ice.

(4) Grinding coffee beans.

(5) Packaging foods that are not potentially hazardous foods



in accordance with rules adopted by the executive board.

(6) Serving bulk food.

(7) Processing raw meat, poultry, fish, or wild game intended for cooking after sale.

(8) Heating when it is the only preparation step for a bakery product.

(9) Providing prepackaged food in its original package.

(10) Cleaning or sanitizing eating, drinking, or cooking utensils when the only food served has been prepared off site.

**Sec. 3.** This chapter does not apply to the following:

(1) Hospitals licensed under IC 16-21.

(2) Health facilities licensed under IC 16-28.

(3) Housing with services establishments that are required to file disclosure statements under IC 12-15.

(4) Continuing care retirement communities required to file disclosure statements under IC 23-2-4.

**Sec. 4.** As used in this chapter, "certified food handler" means a food handler who holds a certificate described in section 7 of this chapter.

**Sec. 5.** As used in this chapter, "food handler" means an individual who:

(1) is an owner, an operator, a manager, or an employee of a food establishment; and

(2) is responsible for or oversees the storage, preparation, display, or serving of food to the public.

**Sec. 6.** After December 31, 2004, at least one (1) food handler at a food establishment must be a certified food handler.

**Sec. 7.** A food handler who holds a certificate recognized by the state department of health meets the food borne illness prevention training requirements established by the state department of health.

**Sec. 8.** After December 31, 2004, a food establishment must have at least one (1) certified food handler responsible for all periods of the food establishment's operation. However, a certified food handler need not be present at the food establishment during all hours of operation.

**Sec. 9.** After December 31, 2004, a food establishment that begins operation or changes ownership shall comply with section 6 of this chapter not later than six (6) months after beginning operation or changing ownership.

**Sec. 10.** After December 31, 2004, if a food establishment does not have a certified food handler because a certified food handler

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1 terminates employment with the food establishment, the owner or  
2 operator of the food establishment shall comply with section 6 of  
3 this chapter not later than three (3) months after the termination  
4 date of the previous certified food handler.

5 Sec. 11. After December 31, 2004, if more than one (1) food  
6 establishment operated by the same individual is located on the  
7 same property or on contiguous properties, only one (1) certified  
8 food handler is required for the food establishments.

9 Sec. 12. After December 31, 2004, an individual who violates any  
10 of the provisions of this chapter is subject to the penalties  
11 prescribed by the executive board under section 13 of this chapter.

12 Sec. 13. Not later than December 31, 2003, the executive board  
13 shall adopt rules under IC 4-22-2 establishing standards for:

14 (1) the administration of this chapter; and

15 (2) the imposition of penalties for violations of this chapter.

16 Sec. 14. This chapter does not limit the authority of a  
17 corporation or local health department to license retail food  
18 establishments.

19 SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE  
20 UPON PASSAGE]: IC 16-22-8-2; IC 16-42-5-1; IC 16-42-5-2;  
21 IC 16-42-5-3.

22 SECTION 9. An emergency is declared for this act.

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SENATE MOTION

Mr. President: I move that Senator Rogers be added as second author of Senate Bill 404.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 404, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 5, delete "IC 16-42-5.2-3." and insert **"IC 16-42-5.2-4."**

Page 1, between lines 5 and 6, begin a new paragraph and insert:

**"SECTION 2. IC 16-18-2-80 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 80. "Corporation", for purposes of IC 16-22-8 has the meaning set forth in IC 16-22-8-2: and IC 16-42-5.2, means the health and hospital corporation created under IC 16-22-8."**

Page 1, line 14, delete "and IC 16-42-5.2,".

Page 1, line 14, strike "has the".

Page 1, line 15, strike "meaning set forth in IC 16-42-5-1." and insert **"and IC 16-42-5.2, means the following:**

**(1) All articles used for food, drink, confectionery, or condiment whether simple, mixed, or compound.**

**(2) All substances or ingredients used in the preparation of the items described in subdivision (1)."**

Page 2, line 1, delete "and IC 16-42-5.2,".

Page 2, line 1, strike "has the".

Page 2, line 2, strike "meaning set forth in IC 16-42-5-2." and insert **"and IC 16-42-5.2, means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food."**

Page 2, line 5, delete "and IC 16-42-5.2,".

Page 2, line 5, strike "has the".

Page 2, line 6, strike "meaning set forth in IC 16-42-5-3." and insert **"and IC 16-42-5.2, means producing, processing, handling, preparing, manufacturing, packing, storing, selling, distributing, or transporting of food."**

Page 2, line 11, delete "IC 16-42-5.2-4." and insert **"IC 16-42-5.2-5."**

Page 2, between lines 38 and 39, begin a new paragraph and insert: **"Sec. 3. This chapter does not apply to the following:**

**(1) Hospitals licensed under IC 16-21.**

**(2) Health facilities licensed under IC 16-28.**

**(3) Housing with services establishments that are required to file disclosure statements under IC 12-15.**

**(4) Continuing care retirement communities required to file**



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**disclosure statements under IC 23-2-4."**

Page 2, line 39, delete "Sec. 3." and insert "**Sec. 4.**".

Page 2, line 40, delete "6" and insert "7".

Page 2, line 42, delete "Sec. 4." and insert "**Sec. 5.**".

Page 3, line 3, delete "facility" and insert "**establishment**".

Page 3, line 6, delete "Sec. 5." and insert "**Sec. 6.**".

Page 3, line 8, delete "Sec. 6." and insert "**Sec. 7.**".

Page 3, line 9, delete "Conference for Food Protection or the".

Page 3, line 12, delete "Sec. 7." and insert "**Sec. 8.**".

Page 3, line 17, delete "Sec. 8." and insert "**Sec. 9.**".

Page 3, line 19, delete "5" and insert "6".

Page 3, line 21, delete "Sec. 9." and insert "**Sec. 10.**".

Page 3, line 24, delete "5" and insert "6".

Page 3, line 27, delete "Sec. 10." and insert "**Sec. 11.**".

Page 3, line 31, delete "Sec. 11." and insert "**Sec. 12.**".

Page 3, line 33, delete "12" and insert "**13**".

Page 3, line 34, delete "Sec. 12." and insert "**Sec. 13.**".

Page 3, between lines 37 and 38, begin a new paragraph and insert:

**"Sec. 14. This chapter does not limit the authority of a corporation or local health department to license retail food establishments.**

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 16-22-8-2; IC 16-42-5-1; IC 16-42-5-2; IC 16-42-5-3."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 404 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 0.

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